

TERRY PEACH 4/10/2009

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

W. A. DREW EDMONDSON, in)
his capacity as ATTORNEY)
GENERAL OF THE STATE OF)
OKLAHOMA and OKLAHOMA)
SECRETARY OF THE ENVIRONMENT)
C. MILES TOLBERT in his)
capacity as the TRUSTEE FOR)
NATURAL RESOURCES FOR THE)
STATE OF OKLAHOMA,)

Plaintiff,)

vs.) No. 05-CV-00329-GKF-PJC

TYSON FOODS, INC, et al.,)
Defendants.)

VIDEOTAPED DEPOSITION OF TERRY PEACH,
before the undersigned Certified Shorthand Reporter,
taken on behalf of the Defendants, at the Attorney
General, 313 Northeast 21st Street, Oklahoma City,
Oklahoma, commencing at 9:06 a.m., on April 10, 2009,
pursuant to the stipulations of the parties.

NICHOLE M. MYERS, RPR, CSR #1704

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A P P E A R A N C E S

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1 ATTORNEY FOR GEORGE'S:

2 MS. K. C. DUPPS TUCKER
3 Bassett Law Firm
4 221 North College
5 Fayetteville, Arkansas 72701

6 ATTORNEY FOR CAL-MAINE:

7 MR. ROBERT SANDERS
8 Young Williams
9 2000 AmSouth Plaza
10 Post Office Box 23059
11 Jackson, Mississippi 39225

12 VIDEOGRAPHER:

13 MR. DAVID FARLEY
14 BALLARD VIDEO PRODUCTIONS, INC.

15
16 S T I P U L A T I O N S

17 It is hereby stipulated and agreed by and among
18 the parties hereto that the deposition is being taken
19 pursuant to agreement of the parties.

20 It is further stipulated by and among the parties
21 hereto that all objections, except as to the form of
22 the question, are to be reserved until the time of
23 trial.
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1 TRANSCRIPT OF PROCEEDINGS

2 VIDEOGRAPHER: We're on the record.

3 TERRY PEACH,

4 after having been duly sworn to testify the truth, the
5 whole truth, and nothing but the truth, testified as
6 follows:

7 DIRECT EXAMINATION

8 BY MR. SANDERS:

9 Q. Mr. Peach, my name is Bob Sanders. I
10 represent the Cal-Maine Defendants in this lawsuit,
11 and I'm going to be the first one to ask you
12 questions this morning. Will you tell us your name
13 and what you do for a living, please.

14 A. Yes. Terry Peach and I'm the Oklahoma
15 Secretary and Commissioner of Agriculture.

16 Q. Can you tell me just briefly what your
17 work background is?

18 A. Yes, sir. I attended school at Oklahoma
19 State University. From there went to teach
20 vocational agriculture in Oklahoma Public School
21 system. Moved back to Northwest Oklahoma and our
22 family farm and ranching operation. Worked there in
23 the oil field business until about 1993. Served from
24 '93 to 2000 as the FSA State Director for USDA. Went
25 back to the farm and ranch for two years and then

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1 waters of the state or cause water quality violations
2 of the waters of the state."

3 Q. All right. That regulation contemplates
4 some lawful runoff or discharge; is that correct?

5 MR. HAMMONS: Object to the form.

6 A. Yes, it appears it does allow minimal
7 amounts.

8 Q. (By Mr. Sanders) Well, it doesn't use the
9 term minimal. It uses the term shall not amount --
10 shall not result in a significant runoff or discharge
11 of pollutants to the waters; is that correct?

12 A. That's right, yes, sir.

13 Q. And then it goes on to state that storage
14 and land application of poultry waste shall not cause
15 a water quality violation to the state -- to the
16 waters of the state; is that correct?

17 A. Yes, sir.

18 Q. All right. Is it correct that it's --
19 referring to that second part of that provision --
20 that you could have some discharge or runoff, but the
21 amount of the discharge or runoff might not reach the
22 threshold of a water quality violation in the state
23 waters; is that correct?

24 MR. HAMMONS: Object to the form. Calls
25 for a legal conclusion.

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1 **A.** That appears to be right, yes, sir.

2 **Q.** (By Mr. Sanders) All right. That would
3 be consistent with the first part of this provision
4 which says that the -- you cannot have a discharge or
5 runoff of significant pollution; is that correct?

6 **A.** Yes.

7 **Q.** All right. So ODAFF agrees that there is
8 no zero -- zero runoff or discharge standard for any
9 pollutants that might be associated with chicken
10 litter; is that correct?

11 MR. HAMMONS: Object to the form.

12 **Q.** (By Mr. Sanders) Or poultry litter?

13 MR. HAMMONS: Object to the form.

14 **Q.** (By Mr. Sanders) Or turkey litter, I'm
15 sorry.

16 **A.** Restate the question.

17 **Q.** So ODAFF agrees and proclaims through its
18 regulations that there is no zero runoff standard for
19 pollutants that are associated or might be associated
20 with chicken litter or turkey litter; is that
21 correct?

22 MR. HAMMONS: Object to the form.

23 **A.** I guess I would say that it would be
24 common knowledge that zero runoff is impossible.

25 **Q.** (By Mr. Sanders) And the law doesn't

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1 require zero -- the standard, the legal standard, is
2 not zero runoff or discharge, is it?

3 MR. HAMMONS: Object to the form.

4 A. Yes.

5 Q. (By Mr. Sanders) You're saying that the
6 legal standard is or is not?

7 A. Is not.

8 Q. Is not a zero. Okay.

9 MR. GEORGE: Mr. Peach, I'm sorry, did you
10 say zero runoff is impossible?

11 A. I would say common knowledge I would think
12 zero runoff was impossible in any instance.

13 MR. GEORGE: All right. I just couldn't
14 hear you. Thank you.

15 Q. (By Mr. Sanders) All right. Earlier when
16 I said I was going to reserve the questions I was
17 going to go through the animal waste management
18 requirements in the regs and -- in ODAFF regs. Are
19 you -- are you familiar with the animal waste
20 management plan requirements in the regs?

21 A. You need to talk to Mr. Parrish.

22 Q. All right. You finally convinced me. I
23 think -- they speak for themselves, and I'm not going
24 to go through them. Let me ask you one other
25 question.